

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

MAR 15 2006

CLERK, U.S. DISTRICT COURT
By _____ Deputy

DOMINGO TURRO,

Petitioner,

VS.

DOUGLAS DRETKE, DIRECTOR,
T.D.C.J., CORRECTIONAL
INSTITUTIONS DIVISION,

Respondent.

§ NO. 4:05-CV-733-A

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O R D E R

Came on for consideration the above-captioned action wherein Domingo Turro is petitioner and Douglas Dretke, Director, T.D.C.J., Correctional Institutions Division, is respondent. This is a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On February 14, 2006, the United States Magistrate Judge issued his proposed findings, conclusions, and recommendation, and ordered that petitioner file objections, if any, thereto by March 8, 2006. On March 9, 2006,¹ petitioner filed a written objection. Respondent has not made any further response.

¹Though petitioner's objections were filed one day late, the court nonetheless considered them.

In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

Petitioner appears to make only one objection to the magistrate judge's finding that his petition should be dismissed as time-barred. Specifically, petitioner urges that his 1990 conviction is not yet final because the Texas Court of Criminal Appeals denied his state habeas application without written order and thus was not a ruling on the merits. See Pet'r's Objection at § D. The authority relied upon by petitioner in making this assertion, however, holds that a denial, as opposed to a dismissal, generally does signify that the merits of a particular claim were addressed. See Ex Parte Thomas, 953 S.W.2d 286, 288-89 (Tex. Crim. App. 1997).

Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the

petition in this action be, and is hereby, dismissed with
prejudice.

SIGNED March 15, 2006.

JOHN McBRYDE
United States District Judge